1 EDMUND G. BROWN JR. Attorney General of California 2 KAREN B. CHAPPELLE Supervising Deputy Attorney General 3 BRIAN G. WALSH Deputy Attorney General 4 State Bar No. 207621 300 So. Spring Street, Suite 1702 5 Los Angeles, CA 90013 Telephone: (213) 897-2535 6 Facsimile: (213) 897-2804 7 Attorneys for Complainant 8 **BEFORE THE BOARD OF REGISTERED NURSING** 9 **DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA** 10 2010-106 11 In the Matter of the Accusation Against: Case No. 12 GERALD SCOTT RASMUSSEN ACCUSATION 6312 Manchester Lane 13 Bakersfield, CA 93309 Registered Nursing License No. 495193 14 Respondent. 15 16 17 **PARTIES** 18 Louise R. Bailey, M.Ed., RN, Interim Executive Officer (Complainant) brings this 1. 19 Accusation solely in her official capacity as the Interim Executive Officer of the Board of 20 Registered Nursing, Department of Consumer Affairs. 21 On or about August 31, 1993, the Board of Registered Nursing (Board) issued 22 Registered Nursing License Number 495193 to Gerald Scott Rasmussen (Respondent). The 23 Registered Nursing License was in full force and effect at all times relevant to the charges 24 brought herein and will expire on February 28, 2011, unless renewed. 25 /// 26 /// 27 /// 28 /// 1

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- 5. Section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
 - 6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

. . .

- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
- 7. Section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. . . ."

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9. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Conviction of a Substantially-Related Crime)

10. Respondent is subject to disciplinary action under section 490, and section 2761, subdivision (f), in conjunction with California Code of Regulations, title 16, section 1444, because he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a Registered Nurse. On or about June 1, 2007, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 415, subdivision (3) [offensive conduct] in the criminal proceeding entitled *The People of the State of California v. Gerald Rasmussen* (Super. Ct. Kern County, 2007, No. BM701554). Respondent was placed on probation for three years and ordered to complete 250 hours of community service. The underlying arrest occurred on or about October 19, 2006, after Respondent engaged in offensive behavior in a park restroom with a consenting adult.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

	1.	Revoking or suspending Registered Nursing License Number 495193, issued to
Resp	onden	t;

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2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and 3. Taking such other and further action as deemed necessary and proper. 8/28/09 DATED: LOUISE R. BAILEY, M.Ed., AN Interim Executive Officer Board of Registered Nursing Department of Consumer Affairs State of California Complainant LA2008601637